

(3) A reference to the particular sections of the statutes or regulations involved; and

(4) A short and plain statement of matters asserted.

§ 45.59 Hearing officers.

(a) A proposed hearing officer must be selected by the Agency Superintendent for Education within one (1) day of receipt of a request for a hearing, from a list established and maintained by the Agency.

(b) After selecting a proposed hearing officer, the Agency Superintendent for Education must, within three (3) days, give the parent(s) and the school full and effective notice of the name of the proposed hearing officer.

(c) The parent and school, each upon notice of the selection of proposed hearing officer, may request that the Agency/Area determine that the person so proposed is not impartial and may exercise one automatic disqualification during the appointment process. The Director shall resolve all challenges for cause (i.e., partiality).

(d) If the proposed hearing officer is automatically disqualified or found to be not impartial by the Director, the Agency Superintendent for Education must within three (3) days designate another person.

(e) Final appointment of a hearing officer occurs whenever a proposed hearing officer is selected by the Agency Superintendent for Education and the parent or the school fails to notify the Agency Superintendent for Education of a decision to challenge the impartiality of the proposed hearing officer or of a decision to automatically disqualify the proposed hearing officer (available only once for each party), or when the Director determines that no doubt exists as to the impartiality of a proposed hearing officer.

§ 45.60 Impartial hearing officer.

(a) A hearing may not be conducted:

(1) By a person who is an employee of a school, or of the BIA, who is involved in the education or care of the child, or

(2) By any person having a personal or professional interest which would conflict with his or her objectivity in the hearing.

(b) A person who otherwise qualifies to conduct a hearing under paragraph (a) of this section is not an employee of the Agency solely because he or she is paid by the Agency to serve as a hearing officer.

§ 45.61 Hearing reports.

(a) Any party to a hearing has the right to:

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children. The cost for such counsel or expert representatives shall be borne by the party employing them;

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five (5) days before the hearing;

(4) Obtain a written or electronic verbatim record of the hearing; and

(5) Obtain written findings of fact and decisions.

(b) Parents involved in hearings must be given the right to:

(1) Have the child who is the subject of the hearing present; and

(2) Open the hearing to the public.

§ 45.62 Timelines and convenience of hearings and reviews.

(a) The Agency shall ensure that a final decision is reached by the hearing officer and a copy of the decision is mailed to each of the parties within 45 days after receipt of a request for a hearing.

(b) A copy of the decision made in a review conducted by the Assistant Secretary—Indian Affairs must be mailed to each of the parties within 30 days of the request for a review.

(c) The hearing or reviewing officer may grant specific extensions of time at the request of either party.

(d) Each hearing and each review involving oral arguments must be conducted at a time and place which is reasonably convenient to the parents and child involved.